RM Mailbag

1. Can anyone receive an SOC (Standard of Care) 4 determination. SOC 4 – possible disciplinary action by the appropriate licensing agency?
   Response: No, an SOC 4 can **only** be given to facility employees/staff/agents, if they have credentials through a licensing agency (e.g.: physicians through Kansas State Board of Healing Arts, nurses through Kansas State Board of Nursing, etc). Although CNA/CMA/CHHA (Certified Nursing Assistant/Certified Medication Aide/Certified Home Health Aide) are credentialed through KDHE (Kansas Department of Health and Environment), SOC 4 should only be give for ANE (Abuse/Neglect/Exploitation) because that is when KDHE will take disciplinary action.

2. What information do I need to send to KDHE when we report that we identified that a CNA, CMA, or CHHA committed ANE? Why do I have to send it in? What exactly is ANE?
   Response: ANE, as defined by KSA 39-1401 are:
   "Abuse" – any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm. This includes:
   1) physical or mental injury
   2) sexual without consent or the individual is incapable of giving consent
   3) unreasonable use of physical restraint, isolation or medication
   4) unreasonable use of physical or chemical restraint, medication or isolation as punishment, for convenience etc
   5) threat or menacing conduct
   6) fiduciary abuse
   7) omission or deprivation of necessary goods or services

   "Neglect" – failure to provide necessary goods or services
   "Exploitation" – misappropriation of property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by undue influence, coercion, harassment, duress, deception, false representation or false pretense

   (For full definitions of ANE, please refer to KSA 39-1401.)

   Required information to include with submission when reporting a CNA, CMA or CHHA through risk management for ANE:
   1) copy of incident investigation with conclusion(s) and SOC determination(s)
   2) copy of clinical records related to the incident, including nursing notes, x-ray reports, photographs or any other written documentation to support the allegation
   3) copy of alleged perpetrator's aide certification
   4) copy of timesheet(s) demonstrating that the alleged perpetrator was on duty and/or in the area at the time of the incident
   5) notarized witness statements from every individual with first hand knowledge of the incident, including the alleged perpetrator, patient, family member(s), staff, etc. (If the statement is written by someone other than the "witness," document this fact with an explanation.)
   6) address and phone number for all individuals with first hand knowledge of the incident – even when the facility was not able to obtain a witness statement from the individual
   7) written statement including any other information (past work history, longevity, relationship with others, police report, etc) to be considered by the KDHE Legal Department

This information is collected for review by the KDHE Legal Department to determine when to place the aide and their identified prohibited offenses on the Kansas Nurse Aide Registry. The alleged perpetrator (aide) is notified of their right to a hearing prior to placement on the Registry. When a hearing is requested, it is sometimes many months after the incident. The contact information is used to facilitate notification of the alleged perpetrator of their right to a hearing (appeal). If a hearing is requested, witness's statements (especially important if witnesses are not available) and other supportive documentation are used to substantiate the allegation.

3. We have clinicians who are reluctant to assign an SOC determination to a physician for a behavior issue. "It did not impact the care of the patient." "It was just not professional." How should we handle those events regarding assigning SOC determination? I am under the impression that 'every' event report has to have an SOC assigned, is that correct?
   Response: Not all events reported to risk management must be processed through risk management. Only events that are risk management issues require SOC determinations, per KAR 28-52-4(a) - Each facility should assure the analysis of patient care incidents.

   Examples of issues that would not be considered risk management issues:
   *The patient complains that they were placed in the blue room and they wanted the pink room
   *Safety issues that would not impact patients – Example: spill left on floor in maintenance department
   *Staff arguing in break room located away from patient areas
   *Physician specific examples listed below
   These may be processed in risk management, but any related stats would not be reported with risk management stats and related documentation would not be protected under the risk management statutes.

   If the physician' inappropriate behavior does not have an impact on patient care, it is not a risk management issue. It would be an HR or credentialing/med staff issue and should be addressed in that arena.

   Examples of physician's inappropriate behavior that impact patient care:
   *Behavior occurs in front of patient(s) or in a patient care area that contains or could have contained patients
   *Behavior results in physician's failure to provide appropriate patient care and/or services. (Refuses to come to hospital when needed. Refuses to give appropriate orders when indicated. Gave orders that are inappropriate or otherwise not appropriate for the patient because of their behavior – anger, impairment, lack of attention, etc)
   *Presents to the hospital under the influence
   *Shares patient information on the facebook of a patient's family.

   Examples of provider's inappropriate behavior that do not impact patient care at your facility:
   *Behavior in a private setting that would not be observed or overheard by patients and were not in a patient care area that could have contained patients. (Physician swears/berates and is overheard by staff – may or may not be directed to staff. Even if the staff member is adversely affected by the physician's behavior and fails to provide appropriate patient care because of their mental state secondary to the altercation with the physician – the SOC goes to the staff member for inappropriate care, not the physician whose behavior was inappropriate. The physician issue would still be an HR or credential/med staff issue.)
   *Behavior that occurs outside of the hospital setting may still be reportable to the Kansas State Board of Healing Arts, Kansas State Board of Pharmacy, etc. (Example: Pharmacist stole physician's prescription pad and wrote prescriptions to be filled at an out of state pharmacy.)